

GARDY & NOTIS, LLP

Mark C. Gardy
James S. Notis (*pro hac vice*)
Orin Kurtz (*pro hac vice*)
560 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Tel: 201-567-7377
Fax: 201-567-7337

GRANT & EISENHOFER P.A.

James J. Sabella (*pro hac vice*)
Diane Zilka (*pro hac vice*)
Kyle McGee (*pro hac vice*)
485 Lexington Avenue, 29th Floor
New York, New York 10017
Tel: 646-722-8500
Fax: 646-722-8501

BURSOR & FISHER, P.A.

L. Timothy Fisher (State Bar No. 191626)
1990 North California Boulevard, Suite 940
Walnut Creek, California 94596
Tel: 925-300-4455
Fax: 925-407-2700

Interim Co-Lead Counsel for the Class and Subclasses

[Additional counsel listed on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE GOOGLE, INC. PRIVACY POLICY
LITIGATION

CASE NO. 12-CV-01382 PSG

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO FILE
UNDER SEAL MATERIALS
DESIGNATED AS CONFIDENTIAL**

Date: June 9, 2015
Time: 10:00 a.m.
Courtroom: 5 – 4th Floor
Judge: Honorable Paul Singh Grewal

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiffs Michael Goldberg, Robert DeMars, and Scott McCullough (“Plaintiffs”) respectfully submit this Administrative Motion to File Under Seal Confidential Materials. In particular, Plaintiffs move to file under seal Exhibits E, F, G, K, and M to the Declaration of James J. Sabella, dated May 12, 2015 (“Sabella Declaration”). The Sabella Declaration is being filed in conjunction with Plaintiffs’ motion for class certification.

Previously Sealed Exhibits

Some of the exhibits attached to the Sabella Declaration were previously sealed pursuant to the Court’s April 10, 2015 Order. Docket No. 112. Those exhibits are: Exhibit K to the Sabella Declaration, production Nos. GOOG-00000008 – GOOG-00000021, which was attached as Exhibit D to the Declaration of James J. Sabella, dated April 3, 2015 (the “April 3 Declaration,” Docket No. 109-1); and Exhibits E, F, and G to the Sabella Declaration, which were previously attached to the April 3 Declaration as Exhibits J, K and L. These documents were ordered sealed by the Court. Docket No. 112.

In addition, Plaintiffs move to seal Exhibit M to the Sabella Declaration. This exhibit consists of Defendant Google, Inc.’s Responses and Objections to Plaintiffs’ Third Set of Interrogatories, including an attachment (called “Goldberg Purchases”) that includes the same private information contained in Exhibit E as well as numerous additional pieces of private information pertaining to Plaintiff Goldberg.

Google has designated this document (including the attachment) as “confidential - outside counsel only” under the operative Protective Order in this litigation. McGee Decl. at ¶ 5. Plaintiffs’ Memorandum refers to, but does not quote from, Exhibit M and therefore no redactions are sought for the Memorandum.

Google bears the burden of substantiating the designation for Exhibit M, with respect, at the least, to its interrogatory answers. For that portion of the exhibit to remain under seal, Google must file with the Court and serve a declaration establishing that the designated information is sealable, and must lodge and serve a proposed sealing order, or must withdraw the designation of confidentiality. If Google does not file its responsive declaration, the portion of the document

1 containing Google's responses to Plaintiffs' interrogatories will be made part of the public record.
2 Civil L.R. 79-5(d), (e). By submitting this motion, Plaintiffs do not concede that the portion of
3 Exhibit M containing Google's responses to Plaintiffs' interrogatories, provisionally filed under seal,
4 satisfies the confidentiality requirements for dispositive motions, but they reserve further briefing on
5 this issue contingent on what Google may argue pursuant to Local Rule 79-5. With respect to
6 Exhibit M's attachment ("Goldberg Purchases"), Plaintiffs respectfully request that the Court seal
7 this portion of the document in order to safeguard the privacy of Plaintiff Goldberg, consistent with
8 its decision to seal a document containing substantially the same information in its April 10, 2015
9 Order. *See Lane v. Wells Fargo Bank, N.A.*, No. C 12-04026 WHA, 2013 WL 2627487, at *1 (N.D.
10 Cal. June 11, 2013) (granting motion to file under seal exhibits that contained individual plaintiffs'
11 personal information); *In re Wachovia Corp. "Pick-A-Payment" Mortg. Mktg. & Sales Practices*
12 *Litig.*, No. 3:09-cv-02015-RS-PSG, 2013 WL 6200008, at *2-3 (N.D. Cal. Nov. 27, 2013) (granting
13 motion to file under seal documents containing personal information of loan modification applicants
14 and statistical information derived from confidential information); *Torres v. Goddard*, No. CV 06-
15 2482-PHX-SMM, 2009 WL 981077, at *1 (D. Ariz. Apr. 10, 2009) (granting motion to file under
16 seal spreadsheets containing contact information of corporate defendant's customers who sent funds
17 by money transfer).

18 For the reasons stated above, and based on the supporting Declaration of Kyle McGee,
19 Plaintiffs respectfully request that this motion be granted and that the Court issue an order in the
20 form proposed.
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1 Dated: May 12, 2015

Respectfully submitted,

2 **BURSOR & FISHER, P.A.**

3 By: /s/ L. Timothy Fisher

4 L. Timothy Fisher (State Bar No. 191626)
5 1990 North California Boulevard, Suite 940
6 Walnut Creek, California 94596
Tel: 925-300-4455
Fax: 925-407-2700

7 **GARDY & NOTIS, LLP**

8 Mark C. Gardy
9 James S. Notis (*pro hac vice*)
Orin Kurtz (*pro hac vice*)
560 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
10 Tel: 201-567-7377
11 Fax: 201-567-7337

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13 James J. Sabella (*pro hac vice*)
14 Diane Zilka (*pro hac vice*)
15 Kyle McGee (*pro hac vice*)
485 Lexington Avenue, 29th Floor
New York, New York 10017
Tel: 646-722-8500
Fax: 646-722-8501

16 *Interim Co-Lead Counsel for the Class and Subclasses*

17 **CARELLA, BYRNE, CECCHI
18 OLSTEIN, BRODY & AGNELLO**

19 James E. Cecchi
20 5 Becker Farm Road
Roseland, New Jersey 07068
Tel: 973-994-1700
Fax: 973-994-1744

21 **LAW OFFICES OF
22 RICHARD S. SCHIFFRIN LLC**

23 Richard S. Schiffrin
24 P.O. Box 2258
West Chester, Pennsylvania 19380
Tel: 610-203-7154

25 **JAMES SCHWARTZ & ASSOCIATES PC**

26 Michael Schwartz
27 1500 Walnut Street, 21st Floor
Philadelphia, Pennsylvania 19102
Tel: 215-751-9865
Fax: 215-751-0658

LAW OFFICES OF MARTIN S. BAKST

Martin S. Bakst (65112)
15760 Ventura Boulevard, Sixteenth Floor
Encino, California 91436
Tel: 818-981-1400
Fax: 818-981-5550

Of Counsel for the Class and Subclasses

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